

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VICKIE LYNN BREWER, SUE ANN ERSTAD, JAMES
ARTHUR FISHER, RAYMOND ANTHONY JAMES,
and WILLIAM HENRY TRAVIS

Appeal 2007-0589
Application 09/852,959
Technology Center 2100

Decided: June 6, 2007

Before JOSEPH F. RUGGIERO, ALLEN R. MACDONALD, and
JEAN R. HOMERE, *Administrative Patent Judges*.

MACDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal from a Final Rejection of claims 12, 13, 20 and 26.

We REVERSE.

DECISION ON APPEAL

A. INTRODUCTION

1. Appellants appeal under 35 U.S.C. § 134 from a Final Rejection of claims 12, 13, 20, and 26 entered June 29, 2005. We have jurisdiction under 35 U.S.C. § 6(b).

2. The Examiner has rejected claims 12, 13, 20, and 26 under 35 U.S.C. §103(a).

3. Claims 1-11, 14-19 and 21-25 are canceled.

B. ISSUE(S)

Whether the Examiner erred in rejecting claims 12, 13, 20, and 26 based on obviousness.

C. FINDINGS OF FACT

The following findings of fact are believed to be supported by a preponderance of the evidence.

INVENTION

1. Appellants invented a method, system, and a medium for building web pages. (Specification 1: 10-11).

2. More particularly, the method and system only builds requested web pages in the human language in which they were requested. (Specification 1: 11-13).

3. When a user generates a request to view an HTML or web page, as shown in block 403 (Figure 4), the system determines whether the page exists statically (has already been built and stored) in the human language that it was requested in, as depicted in block 405. If the page exists then the

web page is served up as depicted by block 411. If not, the web page is dynamically built in the requested language with any updated data, as illustrated at block 407, and then stored (cached locally and/or saved), and transmitted to the requestor, as depicted at block 409. (Specification 7: 11-18).

4. The web page is only built in the human language requested by the user. (Specification 7: 21).

5. After the page is built with the new information only after a user requests to view it, and only in the language that was requested, the page is locally cached and/or saved on hard disk for later use, and transmitted to the requesting user. (Specification 7: 26-28).

6. The system then awaits additional requests from users and for additional new data or information for the web page. (Specification 7: 29-8: 1).

7. When a user requests to view a particular web page, the web server uses a static HTML file (also located on the hard drive) that contains all the static information to build the requested web page and merges in the dynamic information that the library stored in the variable file the last time the information changed. (Specification 8: 29 - 9: 4).

8. Pages are only built when requested and only in the language requested. (Specification 9: 22-23).

9. The invention can be understood by reference to Figures 1 through 4 of the drawings of Appellants' Specification.

10. Claim 12 is representative of the claimed invention and is reproduced as follows:

Claim 12. A method of displaying status information for a machine via a web interface between said machine and a web server, said method comprising:

maintaining status data for said machine utilizing said machine;

receiving a request from a user to view a web page comprising said status information; and

causing said web page to be displayed to said user utilizing said web server in response to said receiving in order to reduce an amount of processing work required by said machine, wherein

said causing comprises

generating a new markup language file in response to a determination that said status data has been previously updated, and

transmitting said new markup language file to said user in response to said generating,

said request comprises data specifying a requested human language, and

said generating comprises generating said new markup language file in only said requested human language.

16. In Boulter, rather than generate and transmit a complete description of the status screen to the management station each time device status changes, a set of device state information in the form of an HTML file is transmitted, e.g., from a remotely located device monitor to the management system. (Paragraph [0017]).

17. Boulter states that the updating of device-status information is relatively efficient and can be done periodically or whenever a change in device status is detected. (Paragraph [0018]).

18. In Boulter, display updates are depicted in the mimic upon detection of a change in device status or at periodic, e.g., pre-selected intervals. By selecting the interval between device updates to be small, a change in device status is illustrated soon after it occurs. (Paragraph [0030]).

19. In Boulter, mimic updates are accomplished by generating, transmitting, and using sets of HTML files that contain device state information, e.g., represented as a set of encoded values, as opposed to transmitting a description of an entire mimic. (Paragraph [0056]).

20. Boulter contemplates that mimic sub-images automatically update as a device status changes or at set periodic intervals without the need for intervention by a user of the management system. (Paragraph [0057]).

21. In Boulter, while the process of updating a display mimic has generally been described as being performed in response to an updated request generated by management system 102, it is to be understood that such updates may be initiated by monitoring system 118. Indeed, those update requests that the monitoring system 118 initiates may take place only

when an actual change in state of an Ethernet port occurs. (Paragraph [0105]).

Internet Explorer

22. The Internet Explorer reference describes that under the heading “General Options” (see page 2) and “Changing Font Sizes” (see page 4), the Language button may be clicked to display the Language Preference dialog box, which enables you to add one or more languages to Internet Explorer. (See page 4).

23. In the Internet Explorer reference, the language button enables Internet Explorer to handle foreign language pages. (See page 4).

24. In the Internet Explorer reference, you can also use the dialog box to set up relative priorities for the designated languages. (See page 4).

D. PRINCIPLES OF LAW

To establish a *prima facie* case of Obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). See MPEP 706.02(j).

The Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966), stated that three factual inquiries underpin any determination of obviousness:

Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented. As indicia of obviousness or nonobviousness, these inquiries may have relevancy.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *KSR Int'l. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007) (*citing In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329 (Fed. Cir. 2006)). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants. *Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444. *See also Piasecki*, 745 F.2d at 1472, 223 USPQ at 788.

Rejections on obviousness grounds cannot be sustained by mere conclusory statements. *KSR Int'l. v. Teleflex Inc.*, 127 S.Ct. at 1741, 82 USPQ2d at 1396 (2007) (*citing In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329 (Fed. Cir. 2006)).

An obviousness analysis commences with a review and consideration of all the pertinent evidence and arguments. “In reviewing the [E]xaminer’s decision on appeal, the Board must necessarily weigh all of the evidence and argument.” *Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444. “[T]he Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency’s conclusion.” *In re Lee*, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002).

E. ANALYSIS

It is our view that the Examiner fails to show where all the claimed elements appear in the cited combination of prior art references.

Specifically, it is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the invention as set forth in claims 12, 13, 20, and 26. Accordingly, we reverse.

With respect to claims 12, 13, 20, and 26, Appellants argue that both Boulter and Internet Explorer fail to teach the generation of a web page in only a requested human language (Br. 6). We agree.

First of all, we recognize that the Examiner acknowledges that Boulter does not explicitly disclose “said request comprises data specifying a requested human language, and generating comprise said new markup language in only said requested human language” (Answer 4 and 7). Therefore, the Examiner relies on Internet Explorer to teach the above noted feature (Answer 5 and 7).

The Examiner states that the Internet Explorer reference teaches a language preference dialog box which enables you to add one or more languages to Internet Explorer. (Answer 7). The Examiner further directs our attention to the Internet Explorer reference (pg. 4, paragraph 4) and states that selection of only one language is permissible, thus vitiating Appellants' sub-argument regarding implicit indication of Internet Explorer generating pages in languages other than user requests. (Answer 7). We disagree.

While the Internet Explorer reference discloses *one or more languages*, Internet Explorer expressly states that you can add one or more languages, not that the selection of only one language is permissible. (Internet Explorer, pg. 4, para. 4). The word "add" generally means to join or unite so as to bring about an increase. *Merriam-Webster's Collegiate Dictionary*, p.14 (11th Edition 2005). In other words, the function of *adding* a language signifies that you are already starting with at least one language and are given the choice to increase the selection by one or more other languages. Therefore, Appellants' argument that the Internet Explorer reference does not restrict the generation of such pages and may be construed as implicitly indicating the generation of pages in languages other than those explicitly requested (Br. 8) does carry some weight.

Further evidence that the Internet Explorer reference may generate pages in languages other than those explicitly requested lies in the fact that the Internet Explorer reference further discloses that the dialog box can also be used to set up relative priorities for the designated languages. (Internet Explorer, pg. 4, para. 4). Priorities would not be necessary if only one file

was being generated. Once a language is added in Internet Explorer, the priorities function becomes reasonable to use.

With respect to why it would have been obvious to combine the references to arrive at “generating said markup language in only said requested human language”, the articulated reasoning of the Examiner (Answer 5 and 8) states that it is for the motivational purpose of designating languages in the web browser for generating web pages. However, the Examiner’s articulated motivation relates to changing fonts styles/sizes and the general appearance of fonts in a web page rather than the claimed generating a new markup language file in only said requested human language. The Examiner fails to articulate why paragraph 4 on page 4 of the Internet Explorer reference would lead one to modify the method/apparatus of Boulter to generate the new markup language file in only said requested human language based on Internet Explorer’s language dialog box. At most we have before us a conclusory statement using paragraph 4 of the Internet Explorer reference and rejections on obviousness grounds cannot be sustained by mere conclusory statements. *KSR*, 127 S.Ct. at 1741, 82 USPQ2d at 1396 (2007) (*citing In re Kahn*, 441 F.3d at 988, 78 USPQ2d 1329 (Fed. Cir. 2006)).

Therefore, we will not sustain and will instead reverse the Examiner’s rejection under 35 U.S.C. § 103 for the same reasons as set forth above.

F. OTHER ISSUES

The Board brings to Appellants’ and the Examiner’s attention the following prior art references:

Ashby	US 6,081,803	Jun. 27, 2000
Fidler	US 2003/0191817	Oct. 9, 2003
		(Filed Feb. 2, 2001)

We leave it to the Examiner to determine if Ashby and/or Fidler and similar prior art describes the limitations recited in claims 12, 13, 20, and 26.

G. CONCLUSION

1. Appellants have established that the Examiner erred in rejecting claims 12, 13, 20, and 26 as being unpatentable under 35 U.S.C. § 103(a) over Boulter in view of McFedries (Internet Explorer).

H. DECISION

In view of the foregoing discussion, we reverse the Examiner's rejection under 35 U.S.C. § 103 of claims 12, 13, 20, and 26.

REVERSED

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